

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA

DEPARTMENT NO. 2

HON. BRUCE WM. DODDS, JUDGE

ELAYNE D. GALBRAITH, et al.,)

Plaintiffs,)

vs.)

No. 144417)

R. J. REYNOLDS TOBACCO)
COMPANY, et al.,)

Defendants.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

December 9, 10 and 11, 1985

APPEARANCES:

For Plaintiff:

LAW OFFICES OF MELVIN BELLI
BY: MELVIN BELLI, ESQ.
PAUL MONZIONE, ESQ.For Defendant
R. J. Reynolds:LAWLER, FELIX & HALL
BY: THOMAS WORKMAN, ESQ.
F. JOHN NYHAN, ESQ.

and

ARCHBALD & SPRAY
BY: DOUGLAS LARGE, ESQ.

and

ROBERT WEBER, ESQ.
Pro Hac Vice

COPY

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NORMA JEAN WINDORTH, CSR NO. 2906
Official Reporter
Courthouse
Santa Barbara, California 93101

1 MR. NYHAN: Nothing further, your Honor.

2 THE COURT: Thank you, Mr. Noriega.

3 The witness is excused.

4 MR. MONZIONE: May we approach the bench with regard to
5 the next witness?

6 THE COURT: With the reporter?

7 MR. MONZIONE: I don't think it's necessary.

8 (Side bar conference not reported.)

9 MR. MONZIONE: Your Honor, at this time, plaintiffs
10 would call Raymond Yesner as the next witness.

11
12 RAYMOND YESNER,
13 called as a witness for and on behalf of the plaintiffs,
14 having been duly sworn, testified as follows:

15 THE CLERK: You do solemnly swear that the testimony
16 you are about to give shall be the truth, the whole truth, and
17 nothing but the truth, so help you God.

18 THE WITNESS: I do.

19 THE CLERK: Please be seated.

20 State and spell your full name.

21 THE WITNESS: My name is Raymond Yesner, R-a-y-m-o-n-d,
22 Y-e-s-n-e-r.

23
24 DIRECT EXAMINATION

25 BY MR. MONZIONE:

26 Q Good afternoon, Dr. Yesner.

27 Now, Doctor, you have an MD; isn't that true?

28 A That's correct.

1 Q Would you tell us where you obtained your medical
2 degree, please?

3 A Tuft Medical School in Boston.

4 Q Approximately when was that, Doctor?

5 A 1941.

6 Q Where did you do your pre-med undergraduate work?

7 A Harvard College.

8 Q Now, since obtaining your MD at Tufts in 1941,
9 did you do a residency?

10 A Yes, I did.

11 Q Would you please tell us where you did your
12 residency?

13 A I did my residency training at the Beth Israel
14 Hospital in Boston.

15 Q Following that, Doctor, did you enter into
16 practice?

17 A No, I have never been in private practice.

18 I -- following that, I was a ship's surgeon, and
19 I was a captain in the Army Medical Corps during World War II.

20 Following that, I became a pathologist in the
21 Veterans Administration starting in 1947.

22 Q Doctor, would you tell us if you hold any board
23 certifications?

24 A I am board certified in pathology.

25 Q When did you become so certified?

26 A 1948.

27 Q Do you have any professional association or
28 affiliations? That is, professional medical groups of some

1 kind.

2 A Oh, yes, a great many.

3 Q Would you tell us those that you can remember,
4 please. Then I will ask you about them individually. If you
5 could just --

6 THE COURT: Doctor, before you do that, can I see
7 Counsel for a moment?

8 (Side bar conference not reported.)

9 THE COURT: Counsel, I understand that the curriculum
10 vitae which you will mark into evidence at a later time is not
11 available at this time. You can go into Dr. Yesner's specific
12 background relating to his testimony, but you'll leave the
13 general material for the curriculum vitae; is that correct?

14 MR. MONZIONE: That's correct.

15 Q BY MR. MONZIONE: Doctor, just with respect to
16 your professional associations, which we'll cover when we get
17 your curriculum vitae, let me ask you: Are there any that
18 deal specifically with pathology?

19 A Yes, most of them do. As a matter of fact, they
20 deal with pathology in general, and they deal more
21 specifically with the pathologist of lung cancer.

22 Q Now, Doctor, would you tell us chronologically,
23 if you will, those places where you have worked professionally
24 as a pathologist since becoming certified in 1949?

25 A I was the chief of the laboratory service at the
26 Newington, Connecticut Veterans Administration Hospital from
27 1947 through 1953. At the same time, I was associate
28 professor of pathology at Yale Medical School.

1 Beginning in 1953, I became director of pathology
2 at the West Haven Veterans Administration Medical Center, and
3 I remained as that until 1974, at the same time, being
4 professor of pathology at Yale Medical School, I also became
5 the Associate Dean of Yale Medical School. I also became the
6 chief of staff at the West Haven VA Medical Center.

7 In 1974, I retired from the VA and became
8 professor of pathology at Yale Medical School, which I am
9 today. In the last year, I became professor emeritus,
10 professor of pathology emeritus, and I also became senior
11 research investigator or scientist -- I am sorry -- the proper
12 title is senior research scientist.

13 Q That is at Yale Medical School, also?

14 A Yes, it is.

15 Q Do you also presently hold a position at the
16 veterans hospital?

17 A No. I am not a VA employee.

18 However, I have assigned to me from Yale Medical
19 School, duties as chief of pathologic anatomy at the West
20 Haven VA Medical Center.

21 Q Doctor, would you explain for us, please, what
22 being chief of pathology entails, presently, in your present
23 position.

24 A I am responsible for all of the diagnoses and
25 teaching in regard to all pathologic anatomy specimens at the
26 West Haven VA Medical Center. I am responsible for the
27 overall running of the pathologic anatomy. I am responsible
28 for the teaching of the Yale medical residents in pathology

1 and also for second year pathology students at Yale.

2 Q Doctor, in your duties as you just described
3 them, do you have occasion to examine biopsies from
4 carcinomous tissue?

5 A A great many.

6 Q Do you have occasion to see any that deal with
7 the lung? That is, cancers of the lung.

8 A A great many.

9 Q Could you tell the jury, please, approximately
10 how many lung cancers you examined in the course, say, of an
11 average year?

12 A Currently?

13 Q Yes, Doctor.

14 A Currently, I get about five hundred a year from
15 the radiology therapy-oncology group. I get about another
16 hundred or so in consultation directly. I see all of those at
17 the West Haven VA Medical Center and those at Yale. I would
18 say about seven hundred fifty a year.

19 Q Now, Doctor, are you familiar with anyone else
20 who is a pathologist or in the medical community who sees this
21 many lung cancers? That is, biopsies in the course of a year
22 period.

23 A No.

24 Q Is that true only with respect to doctors in the
25 United States, or how about worldwide?

26 A Well, over the periods of the past twenty-five to
27 thirty years, I have personally seen and examined over fifteen
28 thousand lung cancers. I doubt if there is anyone who has

1 personally seen and diagnosed that many.

2 Q Doctor, let me ask you about the hundred or so
3 lung cancers which you examined in consultation.

4 What specifically do you mean by "consultation"?

5 A Usually, physicians -- sometimes surgeons,
6 sometimes pathologists, sometimes oncologists -- have sent to
7 me biopsy tissues from lung tumors in which there is a
8 question of the diagnosis, either because they are not
9 responding to therapy as they should or because the
10 pathologist is having trouble interpreting them or because of
11 some other factor involved.

12 These are sent to me in order to get my diagnosis
13 and in order to treat the patient properly.

14 Q From where are these tissues sent; that is, what
15 places do these tissues come from?

16 A They come from all over. Some come from Europe.
17 Some come from the -- this past week I have had some from
18 Arizona. They come from Philadelphia, everywhere.

19 Q These were sent to you by other doctors such as
20 those you described, the oncologist, pathologist, et cetera?

21 A Correct.

22 Q Now, Doctor, I believe you said that one of the
23 reasons that such tissues are sent to you is if there is some
24 question as to the diagnosis.

25 What specifically do you mean by that?

26 A Well, there are some tumors that are difficult to
27 diagnose precisely. This tends to fall into the group of
28 small cell carcinomas of the lung, the differentiation between

1 small cell carcinomas and dermoid small cell carcinomas, as
2 well as malignant carcinoids versus large cell carcinoma.

3 There are sometimes problems that are difficult
4 to solve, not only in terms of carcinoma, but precisely what
5 kind of carcinoma.

6 Q Just for clarification, the question of whether
7 something is a carcinoma or what type of carcinoma are two
8 different questions?

9 A Oh, yes, entirely different.

10 Q Doctor, are you ever consulted for the purpose of
11 determining whether something, in fact, is a carcinoma versus,
12 say, some other form of tumor?

13 A Once in a while.

14 Q Now, Doctor, have you ever been involved in any
15 studies wherein pathologists were provided samples of tissues
16 to render a diagnosis?

17 A Yes.

18 Q Would you describe for us what those studies
19 were, please?

20 A Well, there have been a number of them. There
21 have been two major ones published. One was published
22 about -- around twelve years ago, which I did with an
23 epidemiologist from Yale, who selected fifty cases of lung
24 cancer; and these were coded just with numbers so that they
25 could not be recognized and sent to five different
26 pathologists who determine whether or not they could arrive at
27 a similar or close to a similar diagnosis in looking at the
28 slides. This was done. The slides were then returned.

1 They were then scrambled and recoded and send out
2 again as another fifty slides; but, as a matter of fact, they
3 were the same fifty slides which had just been recoded and
4 sent out.

5 These were then reexamined and rediagnosed by the
6 same group of pathologists, and the results were turned into
7 the statistician, and the results of that were then published.
8 That was one study done quite a number of years ago.

9 What that told us -- and that is now a classic
10 paper -- what that basically told us was that, in those days,
11 pathologists were not uniform in their diagnoses of poorly
12 differentiated carcinomas.

13 Basically, there was no difficulty in the
14 well-differentiated tumors but not in the poorly
15 differentiated ones. This led to a very tight degree of
16 scrutiny and definition through the World Health Organization.

17 A new study was then conducted and published in
18 Cancer in June of this year with five pathologists, including
19 myself; and, this time, it was a much larger study involving
20 one thousand slides from one hundred cases of carcinoma in,
21 which ten blocks were taken from each case. These were sent
22 to each of the pathologists.

23 These pathologists were all people who basically
24 made a specialty of looking at lung tissue rather than being
25 general pathologists. This was very interesting because, this
26 time, they adhered to the World Health Organization
27 definitions of different types of lung cancer; and, this time,
28 the results were quite different from the original one.

1 The results were that ninety-four percent of the
2 pathologists were in agreement in terms of the specific type
3 of lung cancer.

4 Q Now, Doctor, could you explain for us when you
5 say "poorly-differentiated cancers" versus
6 "well-differentiated cancers," what does that mean?

7 A Cancers of the lung in general are divided into a
8 number of groups, depending upon what their major quantitative
9 differences are. That is to say, if a tumor is producing a
10 great deal of keratin, it is a squamous cell carcinoma.

11 This is manifest either in the form of measurable
12 keratin or very large strong desmosomes, which may be seen at
13 intercellular bridges between cells, so that these two
14 criteria make a squamous cell carcinoma.

15 If the tumor is poorly differentiated, these
16 things are only present in small parts of the tumor and not in
17 general. The tumor looks like a large cell, as far as one has
18 to hunt for specific areas of differentiation. When that
19 occurs, it is called a poorly differentiated squamous cell
20 carcinoma.

21 If a tumor is a gland-forming tumor, if it, for
22 example, makes mucin -- if it makes mucin, it's called an
23 adenocarcinoma.

24 Now, if it's in the form of glands or tubules
25 this is a well-differentiated carcinoma. If it's making a
26 very poorly-defined gland or only individual cells making
27 mucin -- that sometimes arises -- a mucin stain, a specific
28 stain could be done to define it.

1 If that is positive, its called a
2 poorly-differentiated adenocarcinoma. This is what we mean by
3 well differentiated and poorly differentiated.

4 Q Now, with respect to the two studies you
5 described, the older of the two, did that involve
6 poorly-differentiated cancers?

7 A It involved both.

8 Q Both times?

9 A Both types.

10 Q What was your involvement in those studies; that
11 is, what do you do to facilitate them?

12 A I was one of the participants. What we did
13 originally was that the epidemiologist involved was Dr. Alvin
14 Finestein from Yale, who took the smoking histories very
15 carefully from a large number of people, since, in another
16 study, smoking histories were involved. That is another part
17 of this study.

18 The tumors were, as I said before, coded by him
19 and sent out to the pathologists, and I was one of the five
20 pathologists who participated in this study.

21 Q Now, with respect to the second of those studies,
22 did you participate in that one?

23 A Yes, I did.

24 Q Doctor, you've referred to epidemiologists.

25 Do you have an opinion whether epidemiology is a
26 medical science?

27 MR. NYHAN: Maybe I better pose an objection to the
28 line of questioning and approach the bench.

1 THE COURT: You may approach the bench. I don't want
2 you objecting to a line of questioning.

3 (Whereupon, the following proceedings
4 were held at the side bar outside the
5 hearing of the jury:)

6 MR. NYHAN: Judge, I am objecting to this line of
7 questioning on the grounds that it exceeds the scope of Dr.
8 Yesner's designation.

9 He was designated to talk about the presence of
10 cancer in John Galbraith, and whether it was present at his
11 death. That was the designation. That was the way the
12 deposition proceeded. He specifically limited his testimony
13 to cancer in Mr. Galbraith in this case.

14 I have another motion to limit Dr. Yesner's
15 testimony, which I want to lodge right now. I object to
16 counsel pursuing anything other than what relates to Mr.
17 Galbraith. That is outside the scope of his designation in
18 his deposition testimony.

19 THE COURT: I understand that what you're trying to do
20 now is to have this witness say that epidemiology is somehow a
21 recognized science and --

22 MR. MONZIO: -- that he relies on epidemiology in
23 forming the basis of his opinion that John Galbraith suffered
24 lung cancer due to smoking, but I am --

25 THE COURT: That is not what you asked.

26 What you asked is -- again, it seems to me you
27 have the cart before the horse. You asked whether he had an
28 opinion about epidemiology.

1 If you want to somehow to show that he somehow
2 relies on it, that is different. That is not what you asked.

3 You haven't ask him if he has any opinion
4 involving anything.

5 MR. MONZIO: That's right.

6 I am just qualifying him. I have just thought it
7 was a good point in time to bring it up since I would like to
8 see the motion defendants are going to file before I go any
9 further. I would like to have an opportunity to fully oppose
10 it and to address any issues.

11 MR. NYHAN: Why don't we continue with the examination
12 on the areas with which he was designated. At 4:30, we can
13 let the jury go and take up the the issue.

14 MR. MONZIO: Is there any problem with that?

15 MR. MONZIO: I am a little uncertain as to --

16 MR. NYHAN: You know you designate him for -- to
17 testify about cancer in John Galbraith.

18 MR. MONZIO: And cause of death.

19 MR. NYHAN: Limit it to Mr. Galbraith. That is the
20 issue.

21 MR. MONZIO: I think that, as is the case with all
22 the other experts -- and I think we have proven this already
23 in opposition to other motions: that the application of
24 statistics and of illnesses, in general, must be considered in
25 diagnosing a given patient, so to the extent that he considers
26 that --

27 THE COURT: Why don't you put on the -- his opinion
28 with regard to Galbraith and his cause of death, and I take it

1 this is one of the reasons -- and we'll not get through to
2 that today anyway. So we'll break and whenever you get
3 through at this point, and we'll start on that.

4 I don't see that is a problem if we can finish
5 with some of the witness' testimony today. I am not
6 indicating that you may not be able to get this in. Again,
7 it's premature. He hasn't given an opinion on anything yet.
8 You haven't asked him anything.

9 MR. MONZIO: I understand.

10 The main difficulty is that I want to spend some
11 more time on his background. I imagine that the Court will
12 not allow into evidence the CV after I go through my
13 questions.

14 THE COURT: You have -- right now, I will.

15 MR. MONZIO: I understand. I want to do it so you
16 won't. That is to say that, in choosing between simply
17 admitting the CV or having him explain it, I would prefer the
18 latter. What is on there is not explanatory to the jury. My
19 preference in this case would be to have them have it orally
20 in court.

21 THE COURT: I gave you a choice. That is fine.

22 MR. NYHAN: Let's get on with the show.

23 MR. MONZIO: The problem is that I have to ask him to
24 render an opinion before I have gone over his qualifications.
25 It kinds of puts those things out of order.

26 THE COURT: We have the guy with the CV here now, don't
27 you? I thought I saw him show up. I am sure I did. He
28 walked in anyway with his hand full of papers. I assumed that

1 was the fellow.

2 MR. MONZIONE: May I have a minute to check on it?

3 (Whereupon, the following proceedings
4 were held in open court within the
5 hearing and presence of the jury:)

6 THE COURT: Do you have the material?

7 MR. MONZIONE: It hasn't arrived yet, your Honor.

8 THE COURT: All right.

9 Counsel, can I see you for a moment?

10 (Side bar conference not reported.)

11 THE COURT: Ladies and gentlemen, with regard to the
12 testimony of the witness, there is a matter that the Court
13 needs to take up outside your presence before we can proceed
14 further.

15 Based on that, we'll be taking our recess at this
16 time as far as your concerned.

17 Remember the admonition. We'll see you tomorrow
18 at 9:00. We'll be proceeding at that time. It looks like we
19 are moving along on schedule.

20 From what I am told by counsel, we may very well
21 finish before Christmas and get deliberations in as well.
22 We'll see you tomorrow.

23 Do remember the admonition. Nine o'clock.

24 (Whereupon the jury was excused and
25 the following proceedings were held:)

26 THE COURT: The record will reflect that everybody is
27 present. It will reflect that the jurors have left.

28 I have read the -- at least most of the motion by

1 MR. MONZIONE: It appears to me that defendants are
2 trying to limit Dr. Yesner's testimony to the issue of cancer,
3 as opposed to emphysema, heart disease, radiation treatments,
4 and the things he got from smoking that led to his death.

5 Now, there is nothing in the designation or
6 subsequently which would have the effect of limiting that. As
7 long as the doctor is free to do that, then I don't see the
8 purpose of the motion.

9 THE COURT: Well, I am reading an answer that the
10 doctor gave and -- tell me if I am correct -- "My
11 understanding of my role in this litigation is that I am to
12 testify as to whether cancer was present in this patient and
13 whether it played a role in the patient's demise."

14 That certainly is pretty limited to me. If you
15 started talking about emphysema or heart disease, that is not
16 what he said his role was.

17 MR. MONZIONE: I know that the doctor testified to
18 those things. He testified as to radiation. The doctor's
19 report written to me, which was turned over pursuant to a
20 request for production of the documents, as well as pursuant
21 to a subpoena at the deposition, which was provided to the
22 defendants, talks about the other things and the role
23 radiation played, et cetera.

24 THE COURT: Radiation was different in the sense that
25 the radiation seemed to have some effect, at least according
26 to Dr. Fisher, on the cause of death. In the sense that it --
27 well I don't know exactly the medical word -- it caused
28 additional scarring in the pulmonary fibrosis, which

1 increased -- that is the wrong word. It hastened his, the
2 decedent's departure.

3 MR. MONZIONE: Sure.

4 THE COURT: That is the testimony you have now. That
5 is really the only testimony. If Dr. Yesner is going to
6 testify to something like that, I don't think there is any
7 problem. If he starts testifying as to emphysema as a
8 separate and independent cause of death, that seems to be
9 contradictory to his own answer in the deposition.

10 MR. MONZIONE: I think emphysema was certainly
11 contributory. We would like the doctor to testify, as to
12 emphysema, how it affects the body, how it affected decedent,
13 how it played a role in causing his death.

14 I think this is the same attempt that was made
15 previously by defendants to somehow limit the role of an
16 expert by this type of response to a question at deposition.

17 If I am present at the deposition, I am certainly
18 not going to testify for the doctor. If I were there, I would
19 have stood up and explained that this is not being limited to
20 cancer when in fact it isn't.

21 THE COURT: We are going to limit it to what the doctor
22 said, and the doctor said "cancer." That is what he said very
23 specifically. I just read you the quote. You didn't stand up
24 and say, "Wait, Doctor, you're wrong."

25 MR. MONZIONE: I don't interfere with the testimony of
26 witnesses, your Honor, whether it be deposition or at trial.
27 I am not going stand up and testify for the doctor and say
28 there is a misunderstanding.

1 I think I need to peruse the deposition very
2 carefully and show the Court where defense did inquire as to
3 the other things -- emphysema, heart disease and the other
4 things that were subjects of the deposition. Really, that is
5 the opportunity I need before we can oppose this effectively.

6 THE COURT: I am telling you now that, unless you can
7 show me something in the deposition that was asked beyond
8 cancer, he will be limited to what he said on his own answer:
9 whether cancer was present in the patient and whether or not
10 the -- it played a role in the patient's demise. That is what
11 his answer was.

12 MR. MONZIO: I know of no authority -- and the
13 defendants have yet to cite any authority to this Court in any
14 of these motions -- to limit expert testimony which says that
15 the understanding of the witness at the time of his deposition
16 controls over the designation of expert witnesses.

17 They are trying to undermine the designation.
18 They know full well what it says. Yet they ask the question
19 of the witness. If the witness doesn't answer exactly,
20 thoroughly and fully in response to one particular question,
21 then this Court has limited the testimony. That is what they
22 are attempting to do here again.

23 THE COURT: That is what I am going to do -- again, if
24 you don't have something to indicate otherwise. When a
25 witness is asked on deposition, "What are you going to testify
26 about?" and the witness answers, that is what you're going to
27 be stuck with. The attempt to get around that is just a game
28 I am not going to countenance.

1 MR. MONZIO: I think the designation controls, not
2 the questions that the witness may or may not answer fully.

3 THE COURT: I understand your position.

4 If you can show me in the deposition that the --
5 in spite of what Dr. Yesner said, that his answers and
6 questions went substantially beyond that, as in emphysema and
7 how that may have caused the death of the -- Mr. Galbraith,
8 that is fine. I am perfectly willing to change my position if
9 you can show me that material in the deposition. At this
10 point, based on his own answer, I am going to limit his
11 testimony to what he said he was going to talk about at the
12 time of trial.

13 MR. MONZIO: If the Court were to limit it to cancer,
14 it would include the radiation treatments for the cancer.

15 THE COURT: That's correct.

16 MR. MONZIO: I would like an opportunity to deal with
17 that in the morning, not only to show the Court the excerpts
18 from the deposition, but also to provide the Court with a copy
19 of Dr. Yesner's report which was in the hands of the
20 defendants prior to and during the time of the deposition.

21 THE COURT: We'll take that up at quarter to 9:00.

22 MR. NYHAN: Is there any chance we might do it earlier,
23 your Honor. We're pushing hard to try to get the jury out by
24 Christmas. If we could start a few minutes earlier, perhaps
25 we can finish Dr. Yesner and we can commence presenting our
26 case tomorrow afternoon.

27 THE COURT: At six o'clock tonight, we are going to
28 take up Mr. Peto. Maybe we can make it 8:30 in the morning,

1 and we can take care of Mr. Peto and Dr. Yesner as well.
2 We'll have the problem of what you want to read out of Mr.
3 Peto's testimony.

4 I indicated earlier that I have substantial
5 doubts as to whether the deposition can be used. After
6 checking into the matter, it seems to me that it can be used.
7 It's my understanding that everybody stipulates that Mr. Peto
8 or Dr. Peto --

9 MR. MONZIONE: Mr. Peto, your Honor.

10 THE COURT: He's in England. That is more than a
11 hundred fifty miles from here. I will take judicial notice of
12 that.

13 MR. MONZIONE: Okay.

14 THE COURT: So it seems his deposition can be used
15 based on the Nizniski versus State Bar case, 14 Cal 3d, 587.
16 If anybody disagrees with that and you have something
17 different, I will listen to you in the morning. That seems to
18 be on point at this point in time.

19 MR. WEBER: Mr. Peto is an issue I will be handling. I
20 would like an opportunity to speak with you briefly in the
21 morning.

22 THE COURT: Give me some case authority. I would be
23 glad to receive it now if you have it.

24 MR. WEBER: It wasn't until we got here today that this
25 fact that they wanted to read that deposition --

26 THE COURT: I found this case by doing a little
27 research while everybody was presenting their testimony. It's
28 certainly not heavy-weight material that anybody had to go to

1 a lot of trouble to find.

2 MR. MONZIONE: I wonder if we can have the names of the
3 witnesses who are going to be called?

4 MR. NYHAN: We gave those at the start of this
5 afternoon's session before the delay with Mr. Peto was
6 announced.

7 THE COURT: We'll see you tomorrow at 8:30.

8 (Whereupon, the evening adjournment
9 was taken until Tuesday,
10 December 10, 1985 at 8:30 a.m.)
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